

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DEBRA FURNEY,

Plaintiff,

No. CIV S-02-1839 GEB EFB

vs.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

FINDINGS AND RECOMMENDATIONS

Defendant Commissioner of Social Security moves for entry of final judgment in plaintiff's favor, following the Commissioner's decision on remand.

On April 3, 2003, this Court entered an order approving the parties' stipulation to remand this case pursuant to 42 U.S.C. § 405(g), sentence six, in order to identify all pertinent records and re-evaluate plaintiff's disability claim. Dckt. No. 8. On remand, the Commissioner issued a decision dated August 22, 2005, fully favorable to plaintiff. See *id.*, Exhibit 1. On June 24, 2009, the Commissioner filed the instant motion. Dckt. No. 9.

The Supreme Court has held that a district court retains jurisdiction over Social Security cases remanded pursuant to 42 U.S.C. § 405(g), sentence six. Upon completion of the administrative proceedings on remand, the Commissioner is required to return to court and file the new administrative decision, so that the court may enter final judgment and thus terminate

1 the matter. *See Melkonyan v. Sullivan*, 501 U.S. 89 (1991); *Shalala v. Schaefer*, 509 U.S. 292
2 (1993). The Commissioner has complied with these procedures.

3 Accordingly, IT IS HEREBY RECOMMENDED that the Clerk of Court be directed to
4 enter judgment in plaintiff's favor.

5 These findings and recommendations are submitted to the United States District Judge
6 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within ten days after
7 being served with these findings and recommendations, any party may file written objections
8 with the court and serve a copy on all parties. Such a document should be captioned "Objections
9 to Magistrate Judge's Findings and Recommendations." Failure to file objections within the
10 specified time may waive the right to appeal the District Court's order. *Turner v. Duncan*, 158
11 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

12 DATED: October 22, 2009.

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14 EDMUND F. BRENNAN
15 UNITED STATES MAGISTRATE JUDGE
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